

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:08-cr-175

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

JEREMY E. LEWIS,

Defendant.

:

ORDER

This case is before the Court on Defendant's Motion to Dismiss all pending Rule 60(b) motions (ECF No. 276). There are no such pending motions. On November 13, 2017, the Magistrate Judge granted (ECF No. 272) Lewis's Motion to Withdraw (ECF No. 271) two previous filings under Fed. R. Civ. P. 60(b), to wit, the October 27, 2017, motion for relief from judgment (ECF No. 266) and the October 30, 2017, motion for relief from judgment (ECF No. 268). With that Notation Order, all pending motions in the case had been disposed of.

Mr. Lewis now says he wants to "voluntarily dismiss" previously filed Rule 60(b) motions, without stating what motions he is referring to. Lewis has filed, by the Magistrate Judge's count, thirteen prior Rule 60(b) motions. If by "voluntarily dismiss" Mr. Lewis implies "without prejudice," he is not entitled to that relief. It is rarely if ever correct to allow a litigant to withdraw without prejudice a motion that has already been decided against him.

Finally, Mr. Lewis says the only Rule 60(b) motion he wants on file and decided by the Court “is the current motion that is sent in this envelope titled: “Rule 60(b)(4) motion to vacate; subject matter jurisdiction.” (ECF No. 276, PageID 1906). That part of the Motion is moot because there was no such document in the envelope received by the Clerk. If Lewis has a motion seeking relief from judgment on the basis of lack of subject matter jurisdiction, he needs to file it, but he has not yet done so.

November 21, 2017.

s/ *Michael R. Merz*
United States Magistrate Judge